IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

HARRY VINSON — PLAINTIFF

VS. — CIVIL ACTION NO.1:99CV305-B-D

REGGIE COLLUMS; his insurance carrier, UNITED STATES FIDELITY AND GUARANTY COMPANY; JOHN PENNEBAKER; his insurance carrier, GREAT RIVER INSURANCE COMPANY; WILLIAM H. (BILL) BENSON; his insurance carrier, STATE FARM FIRE AND CASUALTY COMPANY — DEFENDANTS

MEMORANDUM OPINION

This cause comes before the court upon the motion of defendants Collums, Pennebaker, and Benson to dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.[1] Upon due consideration of the parties' memoranda and exhibits, the court is ready to rule.

FACTS

While the facts of this cause are muddled, the genesis of the action appears to be an order entered in the Chancery Court of Lee County, Mississippi, on or about February 4, 1999, appointing the defendant Bill Benson, Chancery Court Clerk of Lee County, Mississippi, conservator of the estate of Mr. Woodrow Vinson, the plaintiff's father. Subsequent to the entry of said order, the plaintiff executed quitclaim deeds from his father to himself, via a power of attorney allegedly executed by the plaintiff's father, which deeded all interests in property owned by the plaintiff's father to the plaintiff. The plaintiff then attempted to record the deeds in the chancery court clerk's office in each of Lee, Pontotoc, and Union counties. The defendants, respectively, refused to record said deeds as such were in direct violation of the court's February 1999 order. The plaintiff next filed this action "under Title 42 § 1983, Fed. R. Civ. P. 8(a), U.S.A. Constitution Article I Bill of Rights i.e. Religious Rights and U.S.A. Constitution Article XIV equal protection of the law" alleging that the defendants violated his "1st amendment religious rights by breaching [the

[1]The court shall herein refer to the defendants Reggie Collums, John Pennebaker, and Bill Benson collectively as "defendants."

defendants'] oath of office and committing treasonous acts against the plaintiff. . ." and further, they "violated [the] plaintiff's Art.1 Section 10 [of the United States Constitution] rights,. . . . his Constitutional rights, Bill of Rights 14th Amendment which is the plaintiff's due process and equal protection of the law. . . ." and seeking well over forty-two million dollars in damages. See Plaintiff's Complaint. In response, the defendants filed their motion to dismiss.

LAW

A motion to dismiss pursuant to Rule 12 of the Federal Rules of Civil Procedure is generally disfavored, and is rarely granted. Clark v. Amoco Prod. Co., 794 F.2d 967, 970 (5th Cir.1986); Sosa v. Coleman, 646 F.2d 991, 993 (5th Cir.1981). In deciding a motion to dismiss under Rule 12, the district court accepts as true the well-pleaded factual allegations contained in the plaintiff's complaint. C.C. Port, Ltd. v. Davis-Penn Mortgage Co., 61 F.3d 288, 289 (5th Cir.1995). "Taking the facts alleged in the complaint as true, if it appears certain that the plaintiff cannot prove any set of facts that would entitle it to the relief it seeks," dismissal is proper. Id. It must appear beyond any doubt that the plaintiff "can prove no set of facts in support of his claim which would entitle him to relief." Campbell v. City of San Antonio, 43 F.3d 973, 975 (5th Cir.1995) (alterations and citations omitted). Even if it appears an almost certainty that the facts as alleged in the complaint cannot be proved to support the claim, the complaint cannot be dismissed so long as a claim is stated. Boudeloche v. Grow Chem. Coatings Corp., 728 F.2d 759, 762 (5th Cir.1984). If a required element, a prerequisite to obtaining the requested relief, is lacking in the complaint, dismissal is proper. Blackburn v. City of Marshall, 42 F.3d 925, 931 (5th Cir.1995) ("Conclusory allegations or legal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss.").

While dismissal under Rule 12(b)(6) ordinarily is determined by whether the facts alleged, if true, give rise to a cause of action, a claim may also be dismissed if a successful affirmative defense appears clearly on the face of the pleadings. Clark, 794 F.2d at 970; Kaiser Aluminum & Chem. Sales, Inc. v. Avondale Shipyards, Inc., 677 F.2d 1045, 1050 (5th Cir.1982), cert. denied,

459 U.S. 1105, 103 S. Ct. 729, 74 L. Ed. 2d 953. Immunity is just such a defense.

State court clerks are entitled to quasi-judicial immunity for actions taken pursuant to their official position. Boston v. Lafayette County, Mississippi, 744 F. Supp. 746, 750 (N.D. Miss. 1990), aff'd. 933 F. 2d 1003 (5th Cir. 1991) ("quasi-judicial immunity shields lower officials, such as clerks, who implement judicial orders."); Johnson v. Craft, 673 F. Supp. 191, 193 (S. D. Miss) ("Court clerks are immune from liability when performing official acts."). Bill Benson was appointed conservator for Woodrow and Kernith Vinson in his official capacity as Chancery Court Clerk of Lee County pursuant to an order of the court. Said order, among other things, prohibited the plaintiff from conveying Woodrow Vinson's property. The court finds that Bill Benson, John Pennebaker and Reggie Collums were at all times acting within their official capacities as Chancery Court Clerks and pursuant to court order; therefore, said defendants enjoy quasi-judicial immunity and are immune from suit.

Within their motion to dismiss, the defendants have moved for sanctions against the plaintiff pursuant to Rule 11 of the Federal Rules of Civil Procedure. "A lengthy line of decisions [in the 5th Circuit] ... holds that litigants may not obtain review of state court actions by filing complaints about those actions in lower federal courts cast in the form of civil rights suits." Hale, 786 F. 2d 690-91; Brinkman, at 112; See also, Sawyer v. Overton, 595 F. 2d 252 (5th Cir. 1979); Kimball v. The Florida Bar, 632 F. 2d 1283 (5th Cir. 1980). The plaintiff has filed numerous cases in this court based in some fashion upon a state court decision that plaintiff alleges is currently on appeal.[2] In each of these causes, the plaintiff has merely made broad, sweeping allegations against defendants and has failed to plead with particularity any specific facts of the alleged actions. Such bald, baseless conclusions will not suffice as they are too vague to state a claim upon which relief can be granted. Jackson v. Widnall, 99 F.3d 710, 716 (5th Cir. 1996) ("Allegations of constitutional violations must

[2]The plaintiff has filed the following cases based in part upon state court actions: Vinson v. Ross (1:98cv00421-P-D), Vinson v. Colom, (1:99cv0062-B-D), Vinson v.Colom, (1:99cv098-B-D), Vinson v. Benson, et al, (1:99cv0056), George v. Ross, et al, (1:99cv00119-P-B), Vinson v. Collums, et al, (1:99cv00305-B-D); and Vinson v. Presley, et al, (1:99cv00262-P-A). Further, the plaintiff has filed several additional cases that are currently pending in this court.

be pleaded with 'factual detail and particularity,' not mere conclusionary [sic] allegations." Id. at 716 (quoting, Schultea v. Wood, 47 F.3d 1427, 1430 (5th Cir.1995) (en banc)); See Fed. R. Civ. P. 8(a). Further, the plaintiff's arguments are not well grounded in the rules of the court and, in fact, reveal little understanding or working knowledge of the Federal Rules of Civil Procedure, or the United States Code. The court has twice before warned the plaintiff that filing baseless motions or actions, even as a pro se litigant, may invite sanctions.[3] As the instant action is another example of the plaintiff's ill-founded filings, the court finds that the defendants' request for sanctions pursuant to Rule 11 is well taken.

CONCLUSION

For the forgoing reasons, the defendants' motion to dismiss and request for Rule 11 sanctions to be issued against the plaintiff should be granted. An order will issue accordingly.

THIS, the ____ day of January, 2000.

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NEAL B. BIGGERS, JR.
CHIEF JUDGE

[3]See Vinson v. Colom et, al., (1:99cv098-B-D), docket entry #53 , fn 3 ("The court is not obliged to 'suffer in silence the filing of baseless insupportable appeals presenting no colorable claims of error. . . .' Such a 'hodgepodge of unsupported assertions, irrelevant platitudes and legalistic gibberish' may result in sanctions against the plaintiffs. Crain v. Commissioner of Internal Revenue, 737 F. 2d 1417, 1418 (5th Cir. 1984); see Prewitt v. United States Postal Service, 754 F. 2d 641 (5th Cir. 1985); Cole-Hall Co., Inc. v. Malone, 971 F. Supp. 1082 (N. D. Miss. 1997); Bigsby v. Runyon, 950 F. Supp. 761 (N. D. Miss. 1996), cert. denied, 118 S. Ct. 1057, 140 L. Ed. 2d 119 (1998)."; Vinson v. Colom, (1:99cv062-B-D), docket entry #16, fn 3.

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ORDER

In accordance with the memorandum opinion this day issued, it is **ORDERED**:

that the defendants' motion for summary judgment is **GRANTED**;

that the defendants' motion for sanctions is **GRANTED**; and

the plaintiff's claims against defendants Benson, Collums, and Pennebaker are **DISMISSED with prejudice;** and

the defendants' attorney shall submit an affidavit for attorney's fees and costs associated with the filing of the motion to dismiss and serve a copy upon the plaintiff.

THIS, the ____ day of January, 2000.

_____
NEAL B. BIGGERS, JR.
CHIEF JUDGE